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A

MEMORIAL

TO THE

Congress of the United States,

ON THE

SUBJECT OF RESTRAINING

THE

INCREASE OF SLAVERY

IN

NEW STATES

TO BE

ADMITTED INTO THE UNION.

4264.70

PREPARED

IN PURSUANCE OF A VOTE OF THE INHABITANTS OF BOSTON AND ITS VICINITY, ASSEMBLED AT THE STATE HOUSE, ON THE THIRD OF DECEMBER, A. D. 1819.

BOSTON:

SEWELL PHELPS, PRINTER,

No. 5, Court Street.

1819.

THE Committee appointed by a vote of the Meeting holden in the State House on the 3d instant, to prepare a Memorial to Congress, on the subject of the Prohibition of Slavery in the New States, submit the following.

DANIEL WEBSTER,
GEORGE BLAKE,
JOSIAH QUINCY,
JAMES T. AUSTIN,
JOHN GALLISON.

BOSTON, *December* 15, 1819.

Journ 426.14
190.506
Dec. 9, 1870.

MEMORIAL.

To the Senate and House of Representatives of the United States, in Congress Assembled.

THE undersigned, inhabitants of Boston and its vicinity, beg leave most respectfully and humbly to represent; That the question of the introduction of Slavery into the New States, to be formed on the west side of the Mississippi River, appears to them to be a question of the last importance to the future welfare of the United States. If the progress of this great evil is ever to be arrested, it seems to the undersigned that this is the time to arrest it. A false step taken now cannot be retraced; and it appears to us that the happiness of unborn millions rests on the measures, which Congress may, on this occasion, adopt. Considering this as no local question, nor a question to be decided by a temporary expediency, but as involving great interests of the whole of the United States, and affecting deeply and essentially those objects of common defence, general welfare, and the perpetuation of the blessings of liberty, for which the Constitution itself was formed, we have presumed, in this way, to offer our sentiments and express our wishes to the National Legislature. And as various reasons have been suggested, against prohibiting Slavery in the New States, it may perhaps be permitted to us to state our reasons, both for believing that Congress possesses the Constitutional power to make such prohibition

a condition, on the admission of a New State into the Union, and that it is just and proper that they should exercise that power.

And, in the first place, as to the Constitutional authority of Congress.—The Constitution of the United States has declared, that "the Congress shall have power to dispose of and "make all needful rules and regulations respecting the Terri- "tory, or other property belonging to the United States; and "nothing in this Constitution shall be so construed as to preju- "dice the claims of the United States, or of any particular "State." It is very well known that the saving in this clause of the claims of any particular State was designed to apply to claims by the then existing States of territory, which was also claimed by the United States as their own property. It has, therefore, no bearing on the present question. The power, then, of Congress over its own territories is, by the very terms of the Constitution, unlimited. It may make all "need- "ful rules and regulations;" which of course include all such regulations as its own views of policy or expediency shall from time to time dictate. If, therefore, in its judgment, it be needful for the benefit of a Territory to enact a prohibition of Slavery, it would seem to be as much within its power of legislation, as any other ordinary act of local policy. Its sovereignty being complete and universal, as to the Territory, it may exercise over it the most ample jurisdiction in every respect. It possesses in this view all the authority, which any State Legislature possesses over its own Territory; and if a State Legislature may, in its discretion, abolish or prohibit Slavery within its own limits, in virtue of its general legislative authority, for the same reason Congress also may exercise the like authority over its own Territories. And that a State Legislature, unless restrained by some constitutional provision, may so do, is unquestionable, and has been established by general practice.

If, then, Congress possess unlimited powers of government over its Territories, it may certainly from time to time vary,

control and modify its legislation as it pleases. The Territories, as such, can have no rights but such as are conferred by Congress; and it is morally bound to adopt such measures as are best calculated to promote the permanent interests and security of these Territories, as well as to secure the future well being of the Union. Without an enabling act of Congress, no Territory or portion of Territory belonging to the United States can be created into a State, or form a constitution of government, or become discharged of its Territorial obedience; and if Congress may grant to any of its Territories this privilege, it may also most clearly, as it seems to us, in its discretion, refuse it. It is not obliged to admit it to become a State, if it be not satisfied that such admission will conduce as well to its own good as to the good of the Union. In this respect Congress stands, in relation to its Territories, like a State in relation to any portion of its own Territory, which requests to be separated and formed into a New State. No person has ever doubted that the question as to such separation was a question of expediency, resting in the sound discretion of the State; and that it could not be claimed as matter of right, unless in virtue of some compact, establishing such right. No person has ever doubted that any State, in acceding to a division of its Territory, and the formation of a New State, has always possessed the right to impose its own terms and conditions as a part of the grant. The ground of this right is the exclusive possession of sovereignty, with which the State is not compellable to part, and if it does part with it, it may annex all such conditions and rules as it deems fit for its own security and for the permanent good of the citizens of the divided Territory. Such was the case of Virginia, when she acceded to the separation of the District of Kentucky, and allowed it to become an independent State. Such is the case of the recent separation of the District of Maine from Massachusetts. In each of these cases, a considerable number of fundamental conditions were offered to the Districts as the sole grounds, upon which the separation could be al-

lowed; and not a doubt was ever entertained, that these conditions were within the legitimate exercise and authority of these States. These conditions were accepted by Kentucky, and have been accepted by Maine; and it was never imagined, that they in any respect prevented either from possessing all the proper attributes of State sovereignty. They have never been viewed in any other light than as just restrictions, not upon essential State rights, but upon an unlimited exercise of sovereignty, which might be injurious to rights already vested in the parent State, or its citizens. And if Virginia and Massachusetts may, by virtue of their sovereign rights, impose conditions upon their grants of their own Territorial jurisdiction; for the same reason, it would seem, the United States may impose any like conditions, according to their own sound discretion. And a construction of this clause of the Constitution of the United States, which should inhibit Congress from annexing conditions to the act enabling any Territory to form a State government, because it would impair the sovereignty of the State so formed, would equally affect the like conditions annexed by a State to a like act in favour of a portion of its own Territory. A construction, which would lead to such consequences, cannot be a sound one. It would lead to the most injurious results, and absolve all the New States, which have been admitted into the Union since the year 1791, from conditions, which have hitherto been held to be inviolably binding upon them. It would also be repugnant to the comprehensive language of this clause of the Constitution, and to the uniform practice, which has prevailed under it from the earliest period of the formation of New States to the present time. No State has ever admitted a New State to be formed in its own bosom without annexing conditions, and no act has passed Congress enabling any of its Territories to become States, which has not, in like manner, annexed important fundamental conditions to the act. And if conditions may be annexed, it depends solely upon the wisdom of Congress what such conditions shall be. They may embrace every thing

not incompatible with the possession of those federal rights, which an admission into the Union confers upon the New State. As to such rights, there must, by the very nature of the case, be an implied exception. The remarks, that have hitherto been made, have proceeded upon the supposition that Congress are not morally bound, either by the Treaty of Cession, or by any compact with the inhabitants, to pass an act for the erection of the New State, without imposing conditions.

These observations, so far, have been confined to the Constitutional authority of Congress flowing directly from the clause which has been mentioned. Here then is the case of an express power given in plain terms; and by another clause of the Constitution, Congress have express authority "to make "all laws necessary and proper for carrying that power into "execution." But other clauses may well be called in aid of this construction, applicable to all cases whatsoever in which a New State seeks to be admitted into the Union. The Constitution provides that "New States may be admitted into the "Union." The only parties to the Constitution, contemplated by it originally, were the thirteen confederated States. It was perceived that the Territory, already included within these States, might be beneficially divided and organized under separate governments, and that the Territories already belonging to the United States might, and in good faith ought, to participate in the privileges of the federal Union. It was therefore wisely provided that Congress, in which all the Old States were represented, should have authority to admit New States into the Union, whenever in its judgment such an act would be beneficial to the public interests. But it was at the same time provided that no New State should be formed or erected within the jurisdiction of any other State, &c. without the consent of the Legislatures of the *States* concerned, as well as of the *Congress*. It is observable, that the language of the Constitution is, that New States *may* (not *shall*) be admitted into the Union. It is therefore a privilege which Congress may withhold or

grant, according to its discretion. If it may give its consent, it may also refuse it, and no New State can have a right to compel Congress to do that, which in its judgment is not fit to be done. If Congress have authority to withhold its consent, it has also authority to give that consent either absolutely, or upon condition; for there is nothing in the Constitution which restricts the manner or the terms of that consent. It is observable, too, that where a New State is to be erected within the limits of an Old State, the consent of the State Legislature is as necessary as that of Congress. Now it will not, we suppose, be contended, that the State Legislature may not grant its consent upon condition; and if so, Congress must have the same right also, for the consent of the State Legislatures and of Congress is required by the same clause, and the construction which fixes the meaning of "consent" as to the one, must, in order to maintain consistency, fix it as to the other. And here it might be again asked, if the conditions of Virginia, annexed to her consent that Kentucky should become a State, were not binding upon the latter, and upon Congress? It appears to the memorialists perfectly clear, that since Congress has a discretionary authority as to the admission of New States into the Union, it may impose whatever conditions it pleases as terms of that consent; and that this clause, alone, which applies as well to New States formed from Old States, as to those formed from the Territories of the Union, completely establishes the right, for which the memorialists contend.

The creation of a New State is, in effect, a compact between Congress and the inhabitants of the proposed State. Congress would not probably claim the power of compelling the inhabitants of Missouri to form a Constitution of their own, and come into the Union as a State. It is as plain, that the inhabitants of that Territory have no right to admission into the Union, as a State, without the consent of Congress. Neither party is bound to form this connexion. It can be formed only by the consent of both. What, then, prevents Congress, as one of the stipulating parties, to propose its terms?

And if the other party assents to these terms, why do they not effectually bind both parties? Or if the inhabitants of the Territory do not choose to accept the proposed terms, but prefer to remain under a Territorial government, has Congress deprived them of any right, or subjected them to any restraint, which, in its discretion, it had not authority to do? If the admission of New States be not the discretionary exercise of a Constitutional power, but, in all cases, an imperative duty, how is it to be performed? If the Constitution means that Congress *shall* admit New States, does it mean that Congress shall do this on every application, and under all circumstances? Or if this construction cannot be admitted, and if it must be conceded that Congress must, in some respects, exercise its discretion, on the admission of New States, how is it to be shewn, that that discretion may not be exercised, in regard to this subject, as well as in regard to others?

The Constitution declares, "that the migration or importa-" tion of such persons as any of the States, *now existing*, shall " think proper to admit, shall not be prohibited by the Con-" gress, prior to the year 1808." It is most manifest that the Constitution does contemplate, in the very terms of this clause, that Congress possess the authority to prohibit the migration or importation of Slaves; for it limits the exercise of this authority for a specific period of time, leaving it to its full operation ever afterwards. And this power seems necessarily included in the authority, which belongs to Congress, "to " regulate commerce with foreign nations *and among the seve-* " *ral States.*" No person has ever doubted that the prohibition of the foreign Slave Trade was completely within the authority of Congress, since the year 1808. And why? Certainly, only because it is embraced in the regulation of *foreign commerce:* and if so, it may for the like reason be prohibited, since that period, between the States. Commerce in Slaves, since the year 1808, being as much subject to the regulation of Congress as any other commerce, if it should see fit to enact that no Slave should ever be sold from one State to ano-

ther, it is not perceived how its Constitutional right to make such provision could be questioned. It would seem to be too plain to be questioned, that Congress did possess the power, *before* the year 1808, to prohibit the migration or importation of Slaves into its Territories, (and in point of fact it exercised that power) as well as into any *New* States; and that its authority, *after* that year, might be as fully exercised to prevent the migration or importation of Slaves into any of the Old States. And if it may prohibit New States from importing Slaves, it may surely, as we humbly submit, make it a condition of the admission of such States into the Union, that they shall never import them. In relation, too, to its own Territories, Congress possess a more extensive authority, and may, in various other ways, effect the same object. It might, for example, make it an express condition of its grants of the soil, that the owners shall never hold Slaves; and thus prevent the possession of Slaves from ever being connected with the ownership of the soil.

As corroborative of the views, which have been already suggested, the memorialists would respectfully call the attention of Congress to the history of the national legislation, under the confederation as well as under the present Constitution, on this interesting subject. Unless the memorialists greatly mistake, it will demonstrate the sense of the nation at every period of its legislation to have been, that the prohibition of Slavery was no infringement of any just rights belonging to free States, and was not incompatible with the enjoyment of all the rights and immunities, which an admission into the Union was supposed to confer.

It will be recollected that Congress, by a Resolve of the 10th of October, 1780, declared that the unappropriated lands that might be ceded to the United States, pursuant to a previous recommendation of Congress, should be disposed of for the common benefit of the United States, and be settled and formed into distinct republican States, which should become members of the federal Union and have the same

rights of sovereignty, freedom and independence, as the other States. This language is exceedingly strong, and guaranties to the New States the same rights of sovereignty as the Old States possessed. It was undoubtedly with this Resolve in view, that the Territory northwest of the Ohio was ultimately ceded to the United States by the several States claiming title to it; viz. by Massachusetts, Connecticut, New York, and Virginia. New York made a cession on the first of March, 1781, without annexing any condition; Virginia, on the first of March, 1784, upon certain conditions; and, among others, a condition embracing the substance of the Resolve of the 10th of October, 1780. Massachusetts made a cession on the 19th of April, 1785, stating no conditions, but expressly to the uses stated in the Resolve of 1780. And lastly Connecticut made a cession on the 13th of September, 1786, without any condition, but expressly for the common use and benefit of the United States. On the 13th of July, 1787, Congress passed an Ordinance for the government of the Territory so added, which has ever since continued in force, and has formed the basis of the Territorial governments of the United States. This Ordinance was passed by the unanimous voice of all the States present at its passage; viz. Massachusetts, New York, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, and Georgia. It contains six fundamental articles as a compact between the United States and the inhabitants, who might occupy that Territory, which are introduced by a preamble, declaring them to be "for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions, are created; to fix and establish those principles as the basis of all laws, constitutions and governments, which forever hereafter shall be formed in said Territory; to provide also for the establishment of States and a government therein, and for their admission into a share *in the federal councils, on an equal footing with the original States*, at as early a period as might be consistent with the general inte-

" rest." The 6th article declares, that " there shall neither " be Slavery nor involuntary servitude in the said Territory, " otherwise than for the punishment of crimes, whereof the " party shall become convicted." It is observable, that no objection occurred to this article, on the ground that it was incompatible with the equal sovereignty, freedom and independence with the original States, to which the New States, to be formed in the ceded Territory, were entitled, by the Resolve of the 10th of October, 1780, and by the express reference to that Resolve, in the conditions of some of the cessions. It is observable, also, that by the preamble already recited, to which all the States present acceded, and among these were three of the ceding States, and a majority of the Slave-holding States, it was expressly admitted, that the restrictions of the 6th article would not deprive the New States, upon their admission into the federal councils, of their equal footing with the original States. This is a high, legislative construction, by independent States, acting in their sovereign capacity, and entitled to the greater weight, because it was a subject of common interest; and to all it could not but be deemed a precedent, which would justly influence the subsequent measures of the general government. Since the adoption of the Constitution, three New States, forming a part of this Territory, viz. Ohio, Indiana, and Illinois have been admitted into the Union. In the acts enabling them to form State governments and a State constitution, Congress has, among other very important conditions, made it a fundamental condition, that their constitutions should contain nothing repugnant to the Ordinance of 1787. These conditions were acceded to by these States, and have ever been deemed obligatory upon them and inviolable; and these States, notwithstanding these conditions, are universally considered as admitted into the Union upon the same footing as the original States, and as possessing, in respect to the Union, the same *rights of sovereignty, freedom*, and *independence* as the other States, in the sense, in which those terms are used in the Re-

solve of 1780. During a period of thirty years, not a doubt has been suggested, that the provisions of this Ordinance were perfectly compatible with the implied and express conditions of the cessions of this Territory; and that Congress might justly impose the conditions, which it contains, upon all the States formed within its limits.

In the year 1791, Vermont was admitted into the Union, without any condition being annexed respecting Slavery. The reason was obvious. It had already formed a constitution, which excluded Slavery; and it may be also asserted, that, looking to the habits and feelings of its population, and the habits and feelings, and constitutional provisions of neighbouring States, it was morally impossible that Slavery could be adopted in that State.

Kentucky was admitted into the Union in June, 1792. The State was formed from the State of Virginia, and the latter, in granting its consent, imposed certain conditions, which have since been supposed to form a fundamental compact, which neither is at liberty to violate. Congress did not impose any restrictions as to Slavery on its admission, and for reasons, which cannot escape the most careless observer. It would have been manifestly unjust, as well as impolitic.

Tennessee was admitted into the Union in June, 1796. It was ceded by North Carolina, more than six years before, as a Territory, upon certain conditions, and among them, that Congress should assume the government of the Territory, and govern it according to the Ordinance of 1787; with a proviso, however, "that no regulation made or to be made "by Congress shall tend to emancipate Slaves." In good faith, therefore, Congress could not justly insist upon a prohibition of Slavery upon its admission into the Union.

Mississippi was admitted into the Union in December, 1817, upon condition that its constitution should contain nothing repugnant to the Ordinance of 1787, so far as the same had been extended to the Territory by the agreement of cession made between the United States and Georgia; and

Alabama was authorized to become a State by the act of 2d of March, 1819, upon a similar condition. Both of these States were ceded as one Territory to the United States by Georgia, in April, 1802, upon condition, among other things, that it should be admitted into the Union in the same manner as the Territory northwest of the Ohio might be under the Ordinance of 1787; "which Ordinance (it is declared) shall "extend to the Territory contained in the present act of ces- "sion, *that article only excepted, which forbids Slavery.*" The prohibition of Slavery could not, therefore, without the grossest breach of faith, be applied to this Territory. And the very circumstance of this exception in this cession of Georgia, as well as in that of North Carolina, shews strongly the sense of those States that, without such an exception, Congress would possess the authority in question.

The memorialists, after this general survey, would respectfully ask the attention of Congress to the state of the question of the right of Congress to prohibit Slavery in that part of the former Territory of Louisiana, which now forms the Missouri Territory. Louisiana was purchased of France by the Treaty of the 30th of April, 1803. The third article of that Treaty is as follows: "The inhabitants of the ceded Terri- "tory shall be incorporated into the Union of the United "States, and admitted as soon as possible, *according to the* "*principles of the federal Constitution*, to the enjoyment of all "the *rights*, *advantages* and *immunities* of *citizens of the United* "*States;* and in the mean time they shall be maintained and "protected in the free enjoyment of their liberty, property, "and the religion, which they profess."

Although the language of this article is not very precise or accurate, the memorialists conceive that its real import and intent cannot be mistaken. The first clause provides for the admission of the ceded Territory into the Union, and the succeeding clause shews this must be *according to the principles of the federal Constitution;* and this very qualification necessarily excludes the idea that Congress were not to

be at liberty to impose any conditions upon such admission, which were consistent with the principles of that Constitution, and which had been or might justly be applied to other New States. The language is not by any means so pointed as that of the Resolve of 1780: and yet it has been seen that that Resolve was never supposed to inhibit the authority of Congress, as to the introduction of Slavery. And it is clear, upon the plainest rules of construction, that in the absence of all restrictive language, a clause, merely providing for the admission of a Territory into the Union, must be construed to authorize an admission in the manner, and upon the terms, which the Constitution itself would justify. This construction derives additional support from the next clause. The inhabitants "shall be admitted as soon as possible, ac-
"cording to the principles of the federal Constitution, to the
"enjoyment of all the *rights, advantages* and *immunities* of *citi-*
"*zens of the United States.*" The rights, advantages and immunities here spoken of must, from the very force of the terms of the clause, be such as are recognized or communicated by the Constitution of the United States; such as are common to all citizens, and are uniform throughout the United States. The clause cannot be referred to rights, advantages and immunities, derived exclusively from the State governments, for these do not depend upon the federal Constitution. Besides, it would be impossible that all the rights, advantages and immunities of citizens of the different States could be at the same time enjoyed by the same persons. These rights are different in different States; a right exists in one State, which is denied in others, or is repugnant to other rights enjoyed in others. In some of the States, a freeholder alone is entitled to vote in elections; in some, a qualification of personal property is sufficient; and in others, age and freedom are the sole qualifications of electors. In some States, no citizen is permitted to hold Slaves; in others, he possesses that power absolutely; in others, it is limited. The obvious meaning therefore of the clause is, that the rights

derived under the federal Constitution shall be enjoyed by the inhabitants of Louisiana in the same manner as by the citizens of other States. The United States, by the Constitution, are bound to guarantee to every State in the Union a republican form of government; and the inhabitants of Louisiana are entitled, when a State, to this guarantee. Each State has a right to two senators, and to representatives according to a certain enumeration of population pointed out in the Constitution. The inhabitants of Louisiana, upon their admission into the Union, are also entitled to these privileges. The Constitution further declares, "that the citizens "of each State shall be entitled to all the privileges and im- "munities of citizens *in* the several States." It would seem as if the meaning of this clause could not well be misinterpreted. It obviously applies to the case of the removal of a citizen of one State to another State; and in such a case it secures to the migrating citizen all the privileges and immunities of citizens *in* the State to which he removes. It cannot surely be contended, upon any rational interpretation, that it gives to the citizens of each State all the privileges and immunities of the citizens of every other State, at the same time and under all circumstances. Such a construction would lead to the most extraordinary consequences. It would at once destroy all the fundamental limitations of the State constitutions upon the rights of their own citizens; and leave all those rights at the mercy of the citizens of any other State, which should adopt different limitations. According to this construction, if all the State constitutions, save one, prohibited Slavery, it would be in the power of that single State, by the admission of the right of its citizens to hold Slaves, to communicate the same right to the citizens of all the other States within their own exclusive limits, in defiance of their own constitutional prohibitions; and to render the absurdity still more apparent, the same construction would communicate the most opposite and irreconcilable rights to the citizens of different States at the same time. It seems

therefore to be undeniable, upon any rational interpretation, that this clause of the Constitution communicated no rights in any State, which its own citizens do not enjoy; and that the citizens of Louisiana, upon their admission into the Union, in receiving the benefit of this clause, would not enjoy higher, or more extensive rights than the citizens of Ohio. It would communicate to the former no right of holding Slaves, except in States, where the citizens already possessed the same right under their own State constitutions and laws.

The Treaty, then, by providing for the inhabitants of Louisiana the enjoyment of all the rights, advantages and immunities of citizens of the United States, seems distinctly to have pointed to those derived from the federal Constitution, and not to those, which, being derived from other sources, were enjoyed by some and denied to others of the citizens of the United States.

The remaining clause of the Treaty, "that in the mean "time" the inhabitants "shall be maintained and protected "in the free enjoyment of their liberty, property, and the "religion, which they profess," requires no examination. It manifestly applies to the period of its Territorial government; and has no reference to the terms of its admission into the Union, or to the condition of the Territory after it becomes a State. But it may be confidently asked whether, if the whole Ordinance of 1787, which contains the prohibition of Slavery, had been extended to Louisiana, there would have been any thing inconsistent with the enjoyment of liberty, property or religion? So far as Slaves are deemed property, it might be just that the then real owners within the Territory should be secured in the enjoyment of that property; but the permission to acquire such property *in future*, like every other right of property, ought to depend upon sound legislation, and be granted or denied by Congress, as its own judgment should direct. And the memorialists can-

not perceive, in this clause of the Treaty, any restriction upon the right of Congress to exercise the utmost freedom of legislation as to the future introduction of Slaves into the ceded Territory.

Congress, after this cession, divided the Territory into two Territorial governments; and by an act passed on the 2d of March, 1805, in the exercise of its legislative discretion, directed that the Orleans Territory (which has since become the State of Louisiana,) should be governed by the Ordinance of 1787, excepting as to the descent and distribution of estates, and the article respecting Slavery. By a subsequent act of the 11th of April, 1811, authorizing the inhabitants of this Territory to become a State, Congress annexed several highly important conditions to the exercise of this high act of sovereignty. Among other conditions, it required that the River Mississippi, and the waters thereof, should be highways, and remain forever free to all the inhabitants of the United States and its Territories, without any tax, toll or impost laid by the State therefor; that the constitution should contain the fundamental principles of civil and religious liberty, and should allow the trial by jury in criminal cases, and the privilege of the writ of habeas corpus; that all the laws, records and judicial proceedings of the State, judicial and legislative, should be in the language, in which the laws of the United States are written; that the people should disclaim all right to the unappropriated Territory, within the limits of the State, and that the same should be at the disposal of the United States; that lands sold by the United States should be exempt from taxation for five years from the sale; and that lands of non-residents should not be taxed higher than those of residents. These conditions are certainly very striking limitations of sovereignty, and embrace most of the fundamental regulations of the Ordinance of 1787, excepting the article touching Slavery. It is not known to the memorialists that any doubt of their constitutionality, or of their per-

fect harmony with the Treaty of 1803, was ever entertained, either in Congress or in Louisiana; and yet they contained some principles as repugnant to the original jurisprudence of the Territory, at the time of its cession, as could well be devised; and if Congress could then impose such conditions, what reason is there to say, that it may not now impose the same conditions on the Missouri Territory? and if such conditions, why not any others, which its wisdom, its justice or its policy may dictate?

Upon the whole, the memorialists would most respectfully submit, that the terms of the Constitution, as well as the practice of the governments under it, must, as they humbly conceive, entirely justify the conclusion, that Congress may prohibit the further introduction of Slavery into its own Territories, and also make such prohibition a condition of the admission of any New State into the Union.

If the Constitutional power of Congress to make the proposed prohibition be satisfactorily shewn, the justice and policy of such prohibition seem to the undersigned to be supported by plain and strong reasons. The permission of Slavery in a New State necessarily draws after it an extension of that inequality of representation, which already exists in regard to the original States. It cannot be expected, that those of the original States, which do not hold Slaves, can look on such an extension as being politically just. As between the original States, the representation rests on compact and plighted faith; and your memorialists have no wish, that that compact should be disturbed, or that plighted faith in the slightest degree violated. But the subject assumes an entirely different character, when a New State proposes to be admitted. With her there is no compact, and no faith plighted; and where is the reason, that she should come into the Union with more than an equal share of political importance and political power? Already the ratio of representation, established by the Constitution, has given to the States holding Slaves twenty mem-

bers in the House of Representatives more than they would have been entitled to, except under the particular provision of the Constitution. In all probability, this number will be doubled in thirty years. Under these circumstances, we deem it not an unreasonable expectation, that the inhabitants of Missouri should propose to come into the Union, renouncing the right in question, and establishing a constitution, prohibiting it for ever. Without dwelling on this topic, we have still thought it our duty to present it to the consideration of Congress. We present it with a deep and earnest feeling of its importance, and we respectfully solicit for it the full consideration of the National Legislature.

Your memorialists were not without the hope, that the time had at length arrived, when the inconvenience and the danger of this description of population had become apparent, in all parts of this country, and in all parts of the civilized world. It might have been hoped that the New States themselves would have had such a view of their own permanent interests and prosperity, as would have led them to prohibit its extension and increase. The wonderful increase and prosperity of the States north of the Ohio is unquestionably to be ascribed in a great measure to the consequences of the Ordinance of 1787; and few, indeed, are the occasions, in the history of nations, in which so much can be done, by a single act, for the benefit of future generations, as was done by that Ordinance, and as may now be done by the Congress of the United States. We appeal to the justice and the wisdom of the National Councils to prevent the further progress of a great and serious evil: We appeal to those, who look forward to the remote consequences of their measures, and who cannot balance a temporary or trifling convenience, if there were such, against a permanent, growing, and desolating evil.

We cannot forbear to remind the two Houses of Congress, that the early and decisive measures adopted by the American Government for the abolition of the Slave Trade are

among the proudest memorials of our nation's glory. That Slavery was ever tolerated in the Republic is, as yet, to be attributed to the policy of another government. No imputation, thus far, rests on any portion of the American Confederacy. The Missouri Territory is a new country. If its extensive and fertile fields shall be opened as a market for Slaves, the Government will seem to become a party to a traffic which, in so many acts, through so many years, it has denounced as impolitic, unchristian, inhuman. To enact laws to punish the traffic, and at the same time to tempt cupidity and avarice by the allurements of an insatiable market, is inconsistent and irreconcilable. Government, by such a course, would only defeat its own purposes, and render nugatory its own measures. Nor can the laws derive support from the manners of the people, if the power of moral sentiment be weakened, by enjoying, under the permission of Government, great facilities to commit offences. The laws of the United States have denounced heavy penalties against the traffic in Slaves, because such traffic is deemed unjust and inhuman. We appeal to the spirit of these laws: We appeal to this justice and humanity: We ask whether they ought not to operate, on the present occasion, with all their force? We have a strong feeling of the injustice of any toleration of Slavery. Circumstances have entailed it on a portion of our community, which cannot be immediately relieved from it, without consequences more injurious than the suffering of the evil. But to permit it in a new country, where yet no habits are formed, which render it indispensable, what is it, but to encourage that rapacity, and fraud and violence, against which we have so long pointed the denunciations of our penal code? What is it, but to tarnish the proud fame of the country? What is it, but to throw suspicion on its good faith, and to render questionable all its professions of regard for the rights of humanity and the liberties of mankind?

As inhabitants of a free country; as citizens of a great and rising Republic; as members of a Christian community; as living in a liberal and enlightened age, and as feeling ourselves called upon by the dictates of religion and humanity; we have presumed to offer our sentiments to Congress on this question, with a solicitude for the event, far beyond what a common occasion could inspire.